

APPEAL NO. 040758
FILED MAY 26, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 17, 2004. The hearing officer decided that the appellant/cross-respondent (claimant) is not entitled to supplemental income benefits (SIBs) for the second quarter. The claimant appeals, asserting that the hearing officer's finding that she did not make a good faith effort to obtain employment is contrary to the evidence. The respondent/cross-appellant (carrier) urges affirmance and argues that the claimant "is not eligible to receive [SIBs] during the second quarter in that the claimant received temporary income benefits for a subsequent injury during the second quarter." The carrier cross-appeals the hearing officer's finding regarding direct result, asserting that the claimant's underemployment "is not a direct result of her compensable injury [of _____], but rather is due to the injuries sustained in her second injury." The claimant did not file a response.

DECISION

Affirmed.

The hearing officer did not err in making the complained-of determinations. Section 408.142 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) establish the requirements for entitlement to SIBs. At issue was whether the claimant made a good faith job search commensurate with her ability to work during the qualifying period and whether her underemployment was a direct result of the impairment from the compensable injury of _____. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). In view of the applicable law and the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

Given our affirmance of the hearing officer's determination that the claimant is not entitled to second quarter SIBs, we decline to address the carrier's argument that the claimant was otherwise ineligible to receive second quarter SIBs.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Veronica L. Ruberto
Appeals Judge